UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/350/Add.2
26 September 2000

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Second periodic reports of States parties due in 1999

Addendum

Japan*

[13 January 2000]

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* This document contains the initial and second periodic reports of Japan, due on 14 January 1996 and 14 January 1999 respectively.

The annexes to the report submitted by the Government of Japan may be consulted in the files of the secretariat.

GE.00-44687 (E)

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* Available for consultation in the files of the secretariat.

I. INTRODUCTION

1. Japan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 December 1995. The Constitution of Japan stipulates in paragraph 1 of article 14 that all the people are equal under the law. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, to which Japan became party in 1979, also prohibit discrimination on the grounds of race or ethnicity. Based on the above principle of the Constitution and the Covenants, Japan has been striving to realize a society without any form of racial or ethnic discrimination. In acceding to the Convention, Japan reconfirmed the principle of the Constitution, and will continue to make efforts to achieve a society in which each person is respected as an individual and can fully develop his or her own personality.

2. Guided by this principle, Japan engages in various activities against racial discrimination in international settings. Japan consistently expresses its position against racial discrimination in United Nations forums by calling for the adoption of all necessary measures to eliminate any racial or ethnic prejudice. It also contributes to international society by supporting the adoption of resolutions aimed at the elimination of racial discrimination, the establishment of relevant funds and the convening of relevant conferences, as well as by making contributions to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination each year.

A. Respect for fundamental human rights in the Constitution of Japan

3. The Constitution of Japan, the supreme law in Japan's legal system, is based on the principle of the people's sovereignty. Respect for fundamental human rights is one of its important pillars, together with pacifism. The fundamental human rights guaranteed by the Constitution are "conferred upon this and future generations in trust, to be held for all time inviolate" (art. 97) and the philosophy of respect for fundamental human rights is clearly shown in article 13, which provides that "all of the people shall be respected as individual". The fundamental human rights include: (i) civil liberties, such as the right to liberty, the right to freedom of expression, thought, conscience and religion; and (ii) social rights, such as the right to receive education and the right to maintain the minimum standards of wholesome and cultured living. Paragraph 1 of article 14 of the Constitution provides that "all of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin", guaranteeing equality before the law without any discrimination, including either racial or ethnic discrimination, which is the subject of this Convention. Foreign residents in Japan are also guaranteed fundamental human rights under the Constitution except the rights which, owing to their nature, are interpreted to be applicable only to Japanese nationals.[1]

4. These provisions of the Constitution bind together the three sources of power, legislative, administrative and judicial. The three powers of legislation, administration and judicature belong to the Diet, the Cabinet and the Court, respectively. The protection of human rights, including the elimination of racial discrimination, is ensured through rigorous mutual restraint. The Diet, the highest organ of State power, consists of duly elected representatives of the people and exercises legislative power to protect the people's rights and freedom as the sole legislative

organ. The Cabinet (the administrative organ) protects the people's rights and freedom by duly implementing the laws enacted by the Diet. (See under article 6 below for the structure of human rights organs established within administrative bodies to protect human rights.) Furthermore, in cases where the rights of the people are infringed, the courts can offer them redress. (Article 32 of the Constitution provides that "no person shall be denied the right of access to the courts".) The Constitution guarantees the judges their tenure and ensures independent and fair trials, providing that "all judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws" (art. 76, para 3).

5. Provisions of treaties concluded by Japan have legal effect as a part of domestic laws in accordance with paragraph 2 of article 98 of the Constitution, which establishes the obligation to observe treaties and international laws and regulations. Whether or not to apply provisions of the conventions directly is judged in each specific case, taking into consideration the purpose, meaning and wording of the provisions concerned.

B. Land and Population

Land

6. Japan's total land area is 377,819 square kilometres and is comprised of 6,852 islands including the four major islands of Honshu (227,909 square kilometres), Hokkaido (77,979 square kilometres), Kyushu (36,719 square kilometres) and Shikoku (18,294 square kilometres). (See annex 1 for economic and social indexes.)

Population

7. As of 1 October 1997, Japan's total population was estimated at 126,166,000. However, the ethnic characteristics of Japan are not clear since Japan does not conduct population surveys from an ethnic viewpoint.[2] On the other hand, the Ainu, who lived in Hokkaido before the arrival of Wajin,[3] continue to maintain their ethnic identity with continuous efforts to pass on their own language and culture. Their population in Hokkaido was estimated at 23,830 according to the Survey on the Hokkaido Utari Living Conditions conducted by the government of Hokkaido Prefecture in 1993.[4] (See annex 2.)

8. Recently, the number of registered aliens in Japan has been increasing.[5] (See annex 3.) According to Ministry of Justice statistics on alien registration, the number of foreigners registered in all the municipalities as of the end of 1998 is 1,512,116 (1.2 per cent of Japan's total population), a record high. This figure is 191,368 (14.5 per cent) higher than that of five years ago (end of 1999) and 571,111 (60.7 per cent) higher than that of 10 years ago (end of 1988). As for classification by nationality (birthplace), Koreans are the most numerous (42.2 per cent of the total), followed by Chinese (18.0 per cent) and Brazilians (14.7 per cent). (See annexes 4 and 5.)

9. With regard to refugees, Japan concluded, in 1981, the Convention relating to the Status of Refugees of 1951, and in 1982, the Protocol relating to the Status of Refugees of 1967. As a result, Japan revamped the Immigration Control Order as the Immigration Control and Refugee Recognition Act, establishing the refugee recognition system, and has implemented it since January 1982. In all, 234 persons have been recognized as refugees as of the end of June 1999.

Japan allows settlement of refugees from three Indo-Chinese countries (Viet Nam, Laos and Cambodia) and the number settled reached 10,465 persons as of the end of June 1999.

C. The Ainu People

Survey on Hokkaido Utari Living Conditions

10. The government of Hokkaido Prefecture conducted four surveys in 1972, 1979, 1986 and 1993, respectively, on the living conditions of the Ainu people. (See annex 2.) According to the 1993 Survey on Hokkaido Utari Living Conditions, the Ainu people's living standard is continuing to improve as explained below, although the gap with other residents in the district of the Ainu people's residence has not yet diminished.

11. As for their education, the ratio of Ainu youth who go on to high school is 87.4 per cent, and the ratio of Ainu youth who go on to university (including junior college) is 11.8 per cent. The change in the ratio indicates a steady improvement in Ainu access to high school and college. However, a gap still exists as 96.3 per cent of all youth enter high school and 27.5 per cent of all youth enter college in municipalities where the Ainu people reside.

12. Concerning the employment ratio by industry, 34.6 per cent of the Ainu people work in primary industries (22.2 per cent for fisheries), 32.4 per cent work in secondary industries (22.3 per cent in construction), and 32.0 per cent work in tertiary industries (13.1 per cent in the service industry). The ratio of workers in the primary industries decreased and the ratio of workers in the tertiary industries increased from the previous survey. This is the same trend as in the municipalities.

13. The ratio of provision of public assistance for the Ainu is 38.8 per thousand, which is a 22.1 point decrease from the 1986 survey. The gap is slowly continuing to decrease. In the 1972 survey, the rate for the Ainu was 6.6 times more than for the total population in the municipalities where the Ainu people resided, but the difference dropped to 3.5 times in the 1979 survey, 2.8 times in the 1986 survey and 2.3 times in the 1993 survey. The decrease in the public assistance provision ratio shows the positive effects of the Hokkaido Utari measures, which include a facility improvement project to ameliorate the overall living environment, such as local roads and community centres, the consolidation of infrastructure in the area of agriculture, forestry and fisheries, the development of small and medium-sized enterprises to expand sales channels for Ainu arts and crafts, and measures for employment stability and technology training.

14. According to the 1993 survey, 17.4 per cent of the Ainu answered that they had experienced discrimination at school, at job interviews or in making marriages, or that they knew of someone who had experienced such discrimination, although conditions had greatly improved since the previous survey.

Hokkaido Utari Welfare Measures

15. The government of Hokkaido Prefecture is working to improve the living standard of the Ainu people, taking into account the results of the aforementioned survey on living conditions,

and to redress the imbalance with other Hokkaido residents by means of the "Hokkaido Utari Welfare Measures", which have been implemented four times since 1974. These measures include the promotion of education and culture, the maintenance of livelihood opportunities and the promotion of industries. For example, the government offers entrance allowances and grants (loans for college students) to encourage Ainu students to attend high school and college to eliminate the existing gap in educational opportunities between the Ainu and other residents.

16. The Government of Japan organized the "Joint Meeting of Ministries concerned in the Hokkaido Utari Measures" in 1974 to cooperate with and promote the above-mentioned measures led by the government of Hokkaido Prefecture. Thus, the Government ensures close cooperation among the concerned administrative organs to obtain sufficient budgetary provision for the Hokkaido Utari Welfare Measures.

17. The human rights organs of the Ministry of Justice promote nationwide public awareness campaigns to raise awareness of the human rights of the Ainu. They have prepared and distributed information material entitled "The Ainu People and Human Rights". The legal Affairs Bureau and the District Legal Affairs Bureaux in Hokkaido make the motto for Human Rights Week, "Deepen your understanding of the Ainu People". They discuss the Ainu problem at lectures and study groups on human rights in general and hand out brochures and leaflets on such occasions, as well as on the streets.

Round Table on a Policy for the Ainu People

18. Under these circumstances, a "Round Table on a Policy for the Ainu People" started up in March 1995, following a request by the Chief Cabinet Secretary for study of future measures for the Ainu people. The group has discussed the status of the Ainu people in Japan from various angles, calling for hearings with specialists in academic spheres such as natural anthropology, history, ethnology and international law. It has also studied new fundamental concepts and policies for future concrete measures and submitted a report in April 1996 to the Chief Cabinet Secretary. The report states that, at present, the Ainu people lead lives that differ little from those of any other constituents of the society, linguistically as well as culturally; moreover, that there is an extremely limited number of people who can speak the Ainu language. However, it states that the Ainu people are recognized as maintaining their ethnic identity in view of their sense of belonging and their various activities. The report also states that, considering the characteristics and circumstances of the Ainu people, who have lived in Hokkaido, Japan's inherent territory, since the end of the middle ages, even before the arrival of Wajin, the Government should take all possible measures, including legislative measures, to realize a society in which the pride of the Ainu people is respected, by conserving and promoting the Ainu language and traditional culture.

19. Having studied the content of the report with due respect for its spirit, the Government submitted the Law for the Promotion of the Ainu Culture and for the Dissemination of and Advocacy for the Traditions of the Ainu and the Ainu Culture, in view of the current situation of the Ainu tradition and culture (hereinafter "the Ainu tradition"), which is the source of their ethnic pride. The said law was adopted in May 1997 and took effect in July 1997 and, accordingly, the Government, local governments and designated legal persons have carried out

the necessary measures to promote comprehensive and practical research on the Ainu, to promote the Ainu culture, including the Ainu language, and to disseminate and advocate knowledge about the Ainu traditions.

D. Foreigners in Japan

20. Japan adopts a system of status of residence as a basic framework for foreigners to enter and stay in Japan. That is, to accept foreigners in harmony with the development of Japanese society, the Immigration Control and Refugee Recognition Act sets "the status of residence" by categorizing activities which foreigners are authorized to engage in by entering and staying, or the personal relationship or status with which foreigners are authorized to enter and stay. Foreigners are not allowed to enter or stay in Japan unless they fall under any of the status of residence categories, except in cases where other laws provide otherwise. Thus, the Government controls the entry and length of stay of foreigners. A foreigner is given one of the statuses of residence upon being granted permission to enter and stay in the country. The Alien Registration Law requires a foreigner to register with the head of the municipality in which his/her residence is located in order to establish proper control over the aliens residing in Japan by clarifying matters pertaining to their residence and status.

21. As for classification by status of residence as of the end of 1998, 41.4 per cent of the total number of registered foreigners have the status of "Special permanent resident" or "Permanent resident" 17.5 per cent that of "Spouse or child of a Japanese national" and 14.0 per cent that of "Long-term resident". Some 7.9 per cent of all foreigners have statuses under which they are allowed to work. As of the end of 1998, their number reached 118,996, which is 11,698 (10.9 per cent) more than in the previous year. As for classification by region of origin, 91.6 per cent of the total number of registered foreigners in the category "Entertainer" 85.5 per cent in that of "Engineer" and 88.2 per cent in that of "Skilled labour" are from Asia. Some 64.6 per cent in the category of "Instructor" and 53.7 per cent in that of "Religious activities" are from North America.[6]

22. Regarding the acceptance of foreign workers, in December 1995 in the Eighth Employment Measure Basic Plan, the Cabinet decided the principle as follows. The plan calls for acceptance of foreign workers in professional and technical fields for as long as possible, and conditions for inspection regarding the statuses of residence should be reviewed in accordance with changes in the economic and social situation in Japan.

23. On the other hand, with respect to the matter of accepting workers for so-called unskilled labour, there is concern that a wide range of influences may occur in the Japanese economy and society as a result of this, such as pressure on older Japanese workers for whom employment opportunities are rather insufficient; occurrence of new dual structure in the labour market; concern about unemployment as a result of business fluctuations; occurrence of additional new social burdens; etc. These matters also have an extremely great influence upon foreign workers themselves, as well as on the countries to which they belong. For these reasons, the plan requires careful consideration of this matter in accordance with consensus among the Japanese people. Based on the aforementioned policy, in principle, no foreigner is permitted to enter the country to engage in unskilled labour.

24. Those who have already entered the country and illegally engaged in labour activities in contravention of the Immigration Control and Refugee Recognition Act will be deported. Should cases of non-payment of wages or of labour accident benefits (protection under workmen's compensation insurance applies also to illegal residents) be discovered, however, the relevant administrative organs will, in close cooperation with each other, take the necessary remedial measures.

25. The number of foreigners illegally overstaying in Japan was 106,497 as of 1 July 1990, and increased dramatically in 1991 and 1992, hitting a peak of 298,646 on 1 May 1993. Since then, the number, though still large, has declined slightly. It was 271,048 as of 1 January 1999. More than half of the total number of these illegal foreigners used to work for a period of less than one year, but recently, approximately 70 per cent of the total number of illegal aliens have been working for a period of more than one year, indicating a trend towards a longer illegal working period.

26. The increase in illegal workers not only makes the proper management of immigration control difficult but also gives rise to criminal acts such as intermediary exploitation, forced labour and infringements of human rights. To prevent illegal labour, the authorities concerned, in cooperation with each other, give guidance to the employers and apprehend job brokers, organized crime members and disreputable employers who might have connections with illegal workers' entry and/or employment. The human rights protection authorities of the Legal Affairs Bureau offer counselling services regarding human rights even to illegal workers and illegal foreign residents to protect their human rights. In counselling, the authorities treat these people the same as any other foreigners and take care to protect their privacy.

Human rights of foreigners in Japan

27. The Constitution of Japan guarantees fundamental human rights to foreign residents in Japan except the rights which, owing to their nature, are interpreted to be applicable only to Japanese nationals. Thus, the Government actively pursues the goals of (i) ensuring equal rights and opportunities for foreigners, (ii) respecting foreigners' own cultures and values, and (iii) promoting mutual understanding to realize a society in which Japanese and foreigners can live together comfortably.

28. In 1979, Japan ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. In 1981 Japan acceded to the Convention relating to the Status of Refugees of 28 July 1951 and in 1982 to the Protocol relating to the Status of Refugees of 31 January 1967. In accordance with these conventions, the Government ensures equality between Japanese nationals and foreign nationals in many areas.

29. With regard to education, for example, Japan guarantees equal rights to education and equal treatment (no tuition fees, free textbooks, etc.) for the children of foreign nationals who wish to study at public schools for compulsory education. An employment placement service is also provided to all people without racial or ethnic discrimination. Moreover, discriminatory treatment with regard to labour conditions based on nationality is prohibited and punishable by law. Furthermore, public housing is available for foreign nationals as well as Japanese nationals as long as they register their domicile and identity in the municipality of their residence. Social

security is also granted on the basis of the principle of equality regardless of nationality. For example, the nationality requirement for joining the National Pension and the National Health Insurance schemes, as well as for receiving the Child Allowance and the Child-Rearing Allowance, has been abolished. In addition, permanent residents and settled residents residing in Japan can be provided, as an administrative measure, with public assistance under conditions identical to those of Japanese nationals. (See under article 5 below.)

30. To improve administrative services for foreigners, local governments provide various kinds of information in major foreign languages by distributing brochures, offering counselling services and taking measures for Japanese language education. Moreover, foreign language training is conducted for civil servants who have frequent contact with foreign residents on the job.

31. On the other hand, with the rapid increase in the number of foreign residents, there are reported incidents of human rights violations against foreigners among individuals due to differences of language, religion, custom and practice. These include discriminatory treatment of foreigners in various daily life situations. Cases handled by the human rights organs of the Ministry of Justice include the refusal of apartment rental or of entrance to a public swimming pool on the grounds of being a foreigner. The Government takes these incidents as serious human rights violations against foreign residents in Japan, and it requests that the relevant groups and authorities remove the prejudice and misunderstanding against foreigners at all possible times with a view to realizing a society in which all Japanese nationals and foreigners can live comfortably together. It also promotes nationwide campaigns to raise public awareness of this issue. (See under articles 6 and 7 below.)

E. Korean residents in Japan

32. The majority of Korean residents, who constitute about one third of the foreign population in Japan, are Koreans (or their descendants) who came to reside in Japan for various reasons during the 36 years (1910-1945) of Japan's so-called rule over Korea and who continued to reside in Japan after having lost Japanese nationality, which they held during the time of Japan's rule, with the enforcement of the San Francisco Peace Treaty (28 April 1952).

33. The Korean residents are divided into those who have obtained the nationality of the Republic of Korea of their own will and those who have not, under the current circumstances in which the Korean Peninsula is divided into the Republic of Korea and the Democratic People's Republic of Korea.

34. These residents stay in Japan with the status of "Special permanent resident". They numbered 528,450 as of the end of 1998. (The total number of "Special permanent residents" is 533,396, including 4,349 Chinese nationals and people of other nationalities.) About half of these Korean residents live in the Kinki region centred around Osaka and about 20 per cent of them live in the Kanto region, such as Tokyo and Kanagawa Prefecture.

35. The number of "Special permanent residents" continues to decrease every year owing to the settlement and naturalization of Korean residents in Japan.

36. The Constitution guarantees the human rights of these people, as mentioned before, although they do not have the rights that are not applicable to foreign nationals, such as suffrage or freedom of entry into Japan, because they do not have Japanese nationality. Thus, Korean residents in Japan are basically treated in the same way as other foreign residents under domestic law. However, in the light of their historical background and their permanent living conditions, the Government has taken various measures so that these people can have a stable life in Japan.

37. The Governments of Japan and the Republic of Korea had discussed the legal status of third-generation Korean residents and their descendants since 1988 based on the Agreement on the Legal Status and the Treatment of Nationals of the Republic of Korea Residing in Japan.[7] The negotiations came to an end when (then) Prime Minister Kaifu visited the Republic of Korea in 1991, and a memorandum was signed by the Foreign Ministers of Japan and the Republic of Korea.

38. Following the above-mentioned consultations, the Government of Japan has been making sincere efforts to stabilize the life of Korean residents in Japan, as follows:

Legal status

39. Following the said Agreement in January 1991, the Special Law on the Immigration Control of Those Who Have Lost Japanese Nationality and Others on the Basis of the Treaty of Peace with Japan (hereinafter referred to as the "Immigration Control Special Law") was promulgated on 10 May 1991 and took effect on 1 November 1991. The said Special Law aims to stabilize the legal status of the people (and their descendants) who have continued to reside in Japan since before the end of the Second World War and who lost their Japanese nationality with the enforcement of the Peace Treaty with Japan. The said Law was enacted on the basis of the results of discussions on the legal status agreement between Japan and the Republic of Korea, as mentioned above. However, the said Law is applicable, regardless of nationality, to the people who lost Japanese nationality on the basis of the San Francisco Peace Treaty, and their descendants, because it is appropriate to give the same legal status to the North Korean and the Taiwanese residents in Japan who have a similar historical background and settlement status to the South Korean residents in Japan.

40. The Immigration Control Special Law includes the following favourable measures.

(a) Special conditions relating to deportation

41. The reasons for deportation of special permanent residents are restricted to the extreme minimum to further stabilize the legal status of the special permanent residents: the reasons are restricted to crimes concerning insurrection and foreign aggression; crimes concerning foreign relations (damage or destruction of foreign flags, etc., preparation and plots for private war, violation of neutrality ordinances); crimes affecting diplomatic relations (violence and defamation of the heads of foreign States or diplomatic missions); and crimes gravely harming national interests (violation of the Explosives Control Act for the purpose of destroying the democratic judicial order, homicide or arson). So far, no one has been deported for the aforementioned reasons, which are set out in article 9 of the Immigration Control Special Law.

(b) Special period of validity for re-entry permit

42. In cases where special permanent residents work abroad as corporate representatives, or study abroad, the period of validity of their re-entry permit is set at four years (one year for foreigners who have stayed in Japan with another status). One year of extension within five years in total from the date of issuance of the original permit (within two years for foreigners who have stayed in Japan with another status) is permitted in the case of an application made outside of Japan. This facilitates the special permanent residents who live abroad for a long period of time.

(c) Special conditions for landing examination

43. When special permanent residents who have left Japan with a re-entry permit re-enter the country, of the landing conditions set out in article 7, paragraph 1, item 1 of the Immigration Control and Refugee Recognition Act, immigration inspectors consider only the validity of their passport, and do not examine items for refusing entry. Thus, the Government tries to stabilize the status of the permanent resident.

Education

44. Japanese public schools at the compulsory education level accept foreign nationals if they wish to attend school. These persons are treated in the same way as Japanese nationals with regard to free tuition, free textbooks and qualification to enter higher-level schools. (See under article 5, Education, below.) Scholarships are also granted to Korean and other foreign residents with permanent resident status under the same conditions as Japanese nationals.

45. In the memorandum (see para. 37 above) resulting from the consultation between Japan and the Republic of Korea on third-generation Korean residents in Japan, it is stated that the Government of Japan will take proper measures to continue smoothly the extracurricular study of the Korean language and culture conducted with the concurrence of the local governments, with the understanding of the Korean society's wish to maintain its ethnic traditions and culture, including the study of the Korean language. In line with the above-mentioned memorandum, the Government of Japan instructs the local governments to take appropriate measures so that such study can be continued without any difficulties. Actually, several local public entities offer such educational opportunities.

46. At the social education level likewise, opportunities to learn about the foreign cultures of South/North Korea and the Korean language are offered, according to the local needs, in classes and lectures for youth, adults and women at social education facilities, such as citizens' public halls.

47. Most of the Korean residents who do not wish to be educated in Japanese schools attend North/South Korean schools. Most of these schools have been approved by prefectural governors as miscellaneous schools.[8] However, because no specific legal provisions have been stipulated on the educational content of these schools, and because it is difficult to confirm that the graduates of these schools have an academic ability equal to or higher than that of graduates of regular high schools,[9] these graduates are not considered to meet college entry qualifications.

48. The Ministry of Education, Science, Sports and Culture will decide to ease the requirements for taking the University Entrance Qualification Examination in September 1999 so that students studying in foreign schools in Japan can institutionally have a chance to enter Japanese universities. In addition, the Ministry will also decide in August 1999 to ease the requirements for entering Japanese graduate schools so that even persons who have not graduated from universities will be able to enter them through the examination of his/her research ability conducted in the graduate schools concerned.

Employment

49. With regard to employment exchange and labour conditions, discriminatory treatment on the basis of race or nationality is strictly prohibited. The Government, for the sake of Korean residents in Japan, makes efforts to instruct and enlighten employers by conducting public relations activities to provide a proper understanding and recognition of equal employment opportunities and by giving individual guidance to companies engaged in improper businesses.

50. Japanese nationality is required for civil servants who participate in the exercise of public power or in public decision-making, but it is understood that Japanese nationality is not necessarily required for civil servants who do not engage in the above-mentioned work. Korean residents in Japan have been employed as civil servants in accordance with the above-mentioned principle.

51. The Government recognizes that the Japanese people have profoundly come to understand Korean residents and there has certainly been an improvement in the discriminatory attitudes of the Japanese people towards them owing to such factors as the changes in social circumstances inside and outside of Japan, the dissemination of the spirit of respect for human rights among people, education to promote understanding of these people at school and in social education facilities, the guidance and awareness activities by each ministry, including the human rights organs of the Ministry of Justice, and awareness-raising efforts of NGOs. On the other hand, however, discrimination among individuals still exists in daily life, such as in employment and housing rental situations, and in discriminatory remarks and graffiti. (See under articles 4 and 6 below.) Under such circumstances, some Korean residents in Japan use Japanese names as common names in daily life for fear that they may face prejudice or discrimination if they use their native Korean names. The Government is seriously concerned that misguided prejudice and discrimination, which are counter to the principle of equality of all persons, still exists among the Japanese people. Thus, the Government will make further efforts to develop measures on remedies for victims, human rights education at school and social education facilities, continuous guidance and public relations activities for concerned organizations and groups. (See under article 7 below.)

F. Refugees

Treatment of refugees

52. In 1981, Japan concluded the Convention relating to the Status of Refugees of 28 July 1951, and in 1982, the Protocol relating to the Status of Refugees of 1967. As a

result, Japan revamped the Immigration Control Order as the Immigration Control and Refugee Recognition Act, establishing the refugee recognition system, and has implemented it since January 1982. When an application for recognition of refugee status is submitted, the Minister of Justice conducts an investigation into the case and thereafter judges whether it is applicable to the definition of article 1 of the Convention and the Protocol or not. Thus the Government sincerely and strictly implements its obligations under the Convention and the Protocol. Japan ensures, after accepting a person as a refugee, equal treatment for the refugee with its own nationals in accordance with the Convention, providing various protection and humanitarian aid, including employment, education, social security and housing.

53. The data on the process of refugee recognition from 1982 to the end of June 1999 are as follows:

Applications accepted		1 790
Results	Approved	234
	Not approved	1 170
Withdrawal		277
Under process		109

Indo-Chinese refugees

(a) Acceptance of settlement in Japan

54. After having permitted settlement of the Vietnamese refugees who had been staying in Japan temporarily, in 1978, Japan expanded the conditions for the settlement permit to include the Indo-Chinese refugees staying in Asian countries, in 1979. Japan then eased permit conditions twice, allowing settlement of those who had been staying in Japan as foreign students before the political changes took place in the three Indo-Chinese nations and those who have entered Japan as family members under the Official Departure Programme (ODP). With the development of the settlement facilitation system, the quota was gradually increased and the limit on the numbers accepted was abolished in 1994. As of the end of June 1999, the number of Indo-Chinese refugees settled in Japan is 10,465.

The breakdown (as of June 1999) is as follows:

Classification countries	Total No. of settled residents	From facilities in Japan	From facilities abroad	Former foreign students	ODP
Vietnamese	7 900	3 534	1 814	625	1 927
Laotian	1 306	-	1 233	73	-
Cambodian	1 259	-	1 215	44	-
Total	10 465	3 534	4 262	742	1 927

(b) Settlement facilitation measures for Indo-Chinese refugees

55. In 1979, with Cabinet approval, the Government decided to offer Japanese language education, occupational training and employment services to Indo-Chinese refugees with a view

to facilitating their settlement in Japan, and entrusted the implementation of these projects to the Asia Welfare Education Foundation. The Foundation established the Refugee Project Headquarters, followed by the Himeji Settlement Facilitation Centre in Hyogo Prefecture (closed in March 1996) and the Yamato Settlement Facilitation Centre in Kanagawa Prefecture in 1980 (closed in March 1998) and Omura Reception Centre in Nagasaki Prefecture in 1982 (closed in March 1995). In 1983, it opened the International Rescue Centre in Tokyo. Most Indo-Chinese refugees stay at the International Rescue Centre for six months, during which time they learn the Japanese language and acquire the means to adjust to life in Japan, while receiving living expenses. Moreover, these centres arrange for adoption or seek foster parents for refugee children, upon their request. They also offer employment advice and occupational training to refugees who wish to find a job. The total number of users of the centres since their opening is 10,596, as of the end of June 1999.

(c) Living conditions

56. A summary of the 1992 Survey of the Settlement Conditions of Indo-Chinese Refugees (conducted by the Asia Welfare Education Foundation Refugee Project Headquarters), indicates a relatively smooth settlement of refugees. Employment conditions for these refugees have become somewhat more difficult, reflecting the recent sluggishness of the Japanese economy. Therefore, the centres proclaim every November as "Indo-Chinese Refugee Employment Facilitation Month" and hold seminars for employers at many locations. As a result, all 54 refugees who had completed an occupational training course at the centres were employed in 1998. A large number of refugees work in metal processing, electric/machinery/automobile construction, printing and bookbinding.

57. As described above, most of the Indo-Chinese refugees settled in Japan are considered to be well adjusted to their work and the local communities, supported by the understanding and aid of employers and the local communities. With an increasing number of settled Indo-Chinese refugees, however, there are cases of those faced with various problems in their daily life due to differences of language and custom. Therefore, the Refugee Project Headquarters places "counsellors for refugees" at its headquarters and the International Rescue Centre to cope with the complicated and specialized details of consultation, and offers thorough and continuous counselling for the refugees themselves, their family members and their employers.

58. The understanding and cooperation of local residents is indispensable for the smooth settlement of the Indo-Chinese refugees. The Asia Welfare Education Foundation annually holds a meeting with the settled Indo-Chinese refugees in major cities to promote exchanges with local residents and to deepen their mutual understanding.

II. INFORMATION ON THE IMPLEMENTATION OF ARTICLES OF THE CONVENTION

Article 2

Prohibition of discrimination by national and local public authorities

59. The Constitution of Japan provides equality under the law regardless of race, etc. (art. 14, para. 1), and stipulates that "the Constitution shall be the supreme law of the nation and no law,

ordinance, imperial prescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity" (art. 98, para. 1). The Constitution also provides that "all public officials have the obligation to respect and uphold this Constitution" (art. 99). Under these provisions of the Constitution, the Government protects people from any discrimination based on race, etc.

60. The Constitution provides in article 94 that local public entities shall have the right to manage their own property, affairs and administration and to enact their own ordinances within the law; however, various provisions of the Constitution, including the provision in article 99, which sets out the obligation of public officials to respect and uphold the Constitution, bind local public entities. Therefore, the Local Government Law provides that ordinary local public entities can enact ordinances provided that they do not violate the laws and regulations (art. 14, para. 1), that they must not carry out their duties in violation of the laws and regulations (art. 2, para. 15) and that the conduct of local public entities which violate the aforementioned provisions shall be nullified (para. 16). In accordance with these provisions, local public entities also protect people from any discrimination based on race, etc.

61. As respect of human rights is the most fundamental principle for civil servants, lectures on the Constitution of Japan and the Universal Declaration of Human Rights, etc. are offered at ministries and agencies, not only the Ministry of Justice. Upon the accession of Japan to the International Convention on the Elimination of All Forms of Racial Discrimination, the ministries concerned sent notice to all officials in their ministries, relevant special judicial persons, and relevant organs and groups under their control that they should implement the Convention sincerely. They requested them to disseminate the content of the Convention, to give proper guidance and supervision, and to ensure that no discrimination took place. In particular, the Civil Liberties Commissioners and the national government officials engaged in the protection of human rights were well informed of Japan's accession to the Convention by means of notices and the distribution of relevant materials, and were duly instructed to further strengthen measures against racial discrimination or discrimination against foreigners in their public relations activities and human rights infringement cases/human rights counselling. The ministries concerned also actively conduct lectures and case studies on this issue in various seminars for commissioners and civil servants in order to deepen their understanding of the International Convention on the Elimination of All Forms of Racial Discrimination.

Prohibition of discrimination among individuals

62. Article 14, paragraph 1, of the Constitution provides equality under the law without any racial discrimination. Based on this principle, Japan has been making efforts to eliminate all forms of discrimination. In highly public fields, such as education, medical care and traffic, which are closely related to civil life, discriminatory treatment is prohibited by laws and regulations. Moreover, the concerned ministries and agencies carry out guidance and education programmes to eliminate all forms of discrimination.

63. If human rights infringements, including racial discrimination, take place, appropriate measures are to be taken in accordance with the Investigation and Treatment Regulations of Human Rights Infringement Incidents and the Civil Liberties Commissioners Law. (See under article 6 below.) In December 1996, the Law on the Promotion of Measures for Human Rights Protection was enacted to contribute to the further promotion of human rights by elucidating the

responsibility of the Government with regard to the promotion of human rights protection policies and taking necessary measures to consolidate the system of human rights protection, taking into consideration such factors as the increased awareness of the urgency of respect for human rights, national and international trends in the protection of human rights, including those for human rights violation cases such as discrimination on the grounds of social status, family origin, race, creed or sex. In accordance with the latter Law, the Council for Human Rights Promotion was organized in March 1997, with a view to researching and deliberating on basic matters with regard to human rights education and promotion activities, and redress for victims of human rights violations. Recommendations on these two matters will be submitted in July 1999 and March 2002 respectively.

64. In civil law, if an act is found to be unlawful under the Civil Code, the perpetrator will be liable for damage compensation. In cases where a discriminatory act is deemed to be contrary to public policy or good morals as referred to in article 90 of the Civil Code, which is a general provision restricting personal autonomy, such an act may be nullified. Moreover, if a discriminatory act violates penal statutes, the offender will be punished.

Amendment and abolishment of discriminatory laws

65. The Hokkaido Former Natives Protection Law of 1899 and the Asahikawa City Former Natives Reservation District Disposition Law enacted in 1934 as a special law supplementing the former law were aimed at stabilizing the lives of the Ainu who had lost their means of livelihood and were living in extreme poverty after Wajin's settlement in Hokkaido, by granting them land free of charge and by encouraging agriculture. However, there has been no record of land being given free of charge since the middle of 1930, and the actual implementation of the above-mentioned laws is very poor in results. Thus, today, these laws are found to have lost their raison d'être and, moreover, the term "former natives" is inappropriate in the light of today's social common sense.

66. The Round Table on the Policy for the Ainu People, which was set up on 1 March 1995, studied the appropriate Utari measures to be taken, including the legal system, and submitted a report on 1 April 1996 stating that the above-mentioned laws should be abolished. Taking the report into consideration, the Government decided that the said laws should be abolished with the enactment of the Law for the Promotion of the Ainu Culture and for the Dissemination of and Advocacy for the Traditions of the Ainu and the Ainu Culture.

Article 3

Prohibition of apartheid

67. Apartheid does not exist in Japan. Such a policy is prohibited in article 14, paragraph 1, of the Constitution, which guarantees equality under the law without racial or any other form of discrimination.

68. Japan has consistently maintained a firm position against racial discrimination and always opposed apartheid, which contravenes one of the principles of the Charter of the United Nations, that is, the principle of equality of race and respect for fundamental human rights. From the time that conditions worsened in South Africa in 1960, the international

community gradually increased sanctions against South Africa. When the United Nations General Assembly and the Security Council repeatedly adopted anti-apartheid resolutions, beginning in the 1960s, Japan actively supported these resolutions. Under these circumstances, Japan imposed various sanctions against South Africa in cooperation with the international community to urge the abolition of apartheid in South Africa, including interruption of full diplomatic relations (only consular relations were maintained), a ban on direct investment, a request for self-imposed restrictions on financing, restrictions on sports/culture/education exchanges, a ban on the export of arms, restrictions on South African imports, restriction of tourism, suspension of air traffic between the two countries, among others.

69. As a result of international efforts, democratization in South Africa developed sufficiently to achieve the abolition of apartheid. The international community generally welcomed and supported these developments and Japan consequently had lifted all sanctions by January 1994. (Diplomatic relations were resumed in January 1992.)

70. Japan funded the United Nations Southern Africa Educational Training Project, the United Nations South Africa Trust Fund, the Anti-Apartheid Public Relations Trust Fund and the Japan/European Community Joint Project to Support Southern African Coloured People (supporting the Kagiso Trust, a South African domestic support group, based on the recognition that, in the transitional phase of establishing a new system after apartheid, giving support to people of colour in South Africa would facilitate the South African peace process and contribute to the raising of the future generation who would play a role in a new political and economic system. In addition, Japan began new programmes in 1990 such as small-scale grant assistance and the assistance of Japan International Cooperation Agency (JICA) trainees. It has also supported the return of South African refugees by funding UNHCR.

71. Japan welcomes the fact that South Africa brought apartheid to an end and carried out an historic, first general election in April 1994 in which all races participated. Japan evaluates this event in South Africa as a successful example of a peaceful shift to a new political system in a spirit of reconciliation and dialogue, and recognizes that the stability and development of South Africa is important to all Africa. From this point of view, as a responsible member of the international community, Japan decided to reinforce its support for South Africa and announced in July 1994 that it would give a total of 1.3 billion United States dollars in aid to South Africa over a period of two years ($300 million from official development assistance (ODA), $500 million financing by the Export-Import Bank of Japan and a $500 million credit line for trade/foreign investment insurance). Japan endeavours to maintain its support on such a substantial scale, even after the above-mentioned support package programmes end. Japan expressed the policy at the inauguration of a new president elected through the general election held in June 1999, which was the second democratic election in the history of South Africa.

Article 4

Reservations

72. In acceding to the Convention, Japan made the following reservation about paragraphs (a) and (b) of article 4:

> "In applying the provisions of paragraphs (a) and (b) of Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, Japan fulfils the obligations under those provisions to the extent that fulfilment of the obligations is compatible with the guarantee of rights to freedom of assembly, association and expression and other rights under the Constitution of Japan, noting the phrase 'with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article 5 of this Convention' referred to in Article 4."

73. The reason for this reservation is as follows. The Constitution of Japan guarantees freedom of assembly and association, as well as speech, press and all other forms of expression (hereinafter "freedom of expression") in the provisions of article 21, paragraph 1. Freedom of expression is one of the most important of the fundamental human rights since it is an indispensable prerequisite for people to participate in politics and is directly related to respect for an individual's dignity. In view of the importance of freedom of expression, excessively broad restrictions on freedom of expression are interpreted as not being permitted under the Constitution, and the necessity and rationale for such restrictions are strictly demanded even in cases that entail a conflict with the rights of other persons. This principle is applied even more strictly in cases where acts of expression are restricted by penalties. Article 31 of the Constitution of Japan guarantees the principle of legality of crime and punishment, requiring that the provisions of criminal laws shall state as concretely and clearly as possible the practices that are punishable and the penalties that are to be meted out.

74. Article 4 (a) and (b) of the Convention require that State parties punish dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination. In Japan, it is possible to punish such practices as long as this is compatible with the Constitution; accordingly, Japan fulfils the obligation established by the Convention to that extent. However, as stated above, to control all such practices with criminal laws and regulations beyond the current legal system is likely to be contrary to the freedom of expression and other freedoms guaranteed by the Constitution. This is because the concept referred to in the said article may include various practices under diverse conditions. Therefore, Japan has decided to fulfil obligations stipulated in article 4 of the Convention so long as they do not contradict the guarantees of the Constitution of Japan, while paying due regard to the rights proclaimed in the Universal Declaration of Human Rights.

75. In Japan, the implementation of domestic laws to prevent human rights violations by discrimination and activities to raise public awareness of human rights have proved to be successful in eliminating discriminatory practices and preventing future reoccurrences of such practices. The Government believes that respect of human rights by the general public should be essentially enhanced through free speech guaranteed by the right to freedom of expression, and that it is most appropriate that a society itself eliminate any existing discrimination and prejudice of its own will by respecting the constitutional provision prohibiting the abuse of freedom and rights. It is hoped that public relations activities conducted by the Government will facilitate such a self-cleansing action in the society.

Punishment of dissemination, incitement and violence

76. As is clear from Japan's reservation to the Convention regarding all dissemination of ideas based on racial superiority or hatred, there are no provisions that specifically establish racially discriminatory expression, that is, dissemination of ideas based on racial superiority or hatred, as a criminal act, considering the importance of the freedoms of assembly, association and expression as guaranteed by the Constitution. However, if the content of the ideas disseminated damages the honour or credit of a specific individual or group, such dissemination is punishable under the Penal Code as a crime of defamation (art. 230), insult (art. 231) or damage to credit, obstruction of business (art. 233) of the Penal Code. If such activities include threats against a specific individual, they are punishable as a crime of intimidation (Penal Code, art. 222), collective intimidation or habitual intimidation (Law concerning Punishment of Physical Violence and Others, arts. 1 and 1.3).

77. Incitement to racial discrimination is punishable as a crime of instigation (Penal Code, art. 61) or assistance (art. 62) of the crimes if an act constitutes one of the above-mentioned crimes. If instigation to or assistance in a violation of a law prohibiting discriminatory treatment, such as the provision of equal treatment by public officials (arts. 27 and 109 of the National Public Service Law, arts. 13 and 60 of the Local Public Service Law), is also punished.

78. With regard to punishing violent acts against any race or group of persons of another colour or ethnic origin, the Penal Code contains riot provisions for cases in which a large number of persons assemble and use violence or threat (art. 106), and other criminal provisions, such as rape (art. 177), homicide (art. 199), bodily injury (art. 204), unlawful meeting and assembly with dangerous weapons (arts. 208-2) and robbery (art. 236), though there is no specific law to severely punish violence against a certain group. Moreover, the Law concerning Punishment for Physical Violence and Others penalizes collective violence/intimidation/destruction of property (art. 1) and habitual violence/bodily injury/destruction of property (arts. 1-3). The Explosives Control Act and the Law Punishing Use, etc. of Glass Bottle Grenades also penalize using, etc. explosives and glass bottle grenades, respectively.

79. If an act constitutes one of the crimes referred to in the preceding paragraph, incitement to the act is punishable as a crime of instigation (Penal Code, art. 61) or assistance (art. 62) of the crimes. In addition, article 206 of the Penal Code punishes anybody who encourages the offender in injuring another person at the scene of the crime.

80. If a person assists in committing any of the above-mentioned racist activities, including the financing thereof, he/she will be punished as having committed the crime of assistance, in accordance with article 62 of the Penal Code.

81. In relation to article 4 of the Convention, there were a number of incidents of harassment and assaults against Korean students across Japan from the spring to the summer of 1994. They included discriminatory words and behaviour against female students of Korean schools, discriminatory graffiti in railway station restrooms and incidents of assault by ripping chima chogori (Korean ethnic dress), to all of which the Government paid great attention in the light of the protection of human rights.

82. The police attempted to arrest the offenders quickly and to prevent further such incidents from happening by reinforcing patrols in possible trouble areas during commuting hours, with the close teamwork of the authorities concerned and the cooperation of schools. Arrests relating to these incidents included the following:

(a) The police arrested an adult on a charge of assault and destruction of property on suspicion of ripping off a 13 centimetre long, 9 centimetre wide piece of cloth from the waist of the chima (skirt) of a female Korean school student on a train.

(b) The police arrested a boy on charges of physically assaulting another boy. He was suspected of striking and hurting a male Korean school student who was playing at an amusement centre. Moreover, after North Korea's launch of a missile in August 1998, six cases of harassment of Korean students and schools in Japan were reported to the police by the end of December 1998: one female Korean student had her school bag cut in the train (Tokyo); one male Korean student was punched in the stomach on his way to school (Tokyo); a female Korean student had her hair pulled on her way to school (Aichi); a Korean female student had her hand slashed at a railway station on her way home (Tokyo); and two Korean schools in Osaka and Gifu had graffiti scribbled on the walls. The police are continuing their investigation into these cases.

83. The human rights organs of the Ministry of Justice collected relevant information, and investigated suspicious cases of human rights infringement, hearing the parties concerned. To prevent any reoccurrence of harassment, they also carried out campaigns to draw people's attention to human rights so that people would be fully aware of the human rights of foreign residents, including Koreans, and thus eradicate such harassments, distributed leaflets calling for an end to discrimination, put up awareness posters, appealed for "a stop to any discrimination or harassment against foreign people" on street corners, offered counselling to students and children of Korean residents, and added "the issue of human rights of foreign residents in Japan" to lecture and symposium topics.

84. After North Korea's launch of the missile in August 1998, there occurred many cases throughout Japan which could not be overlooked in the light of human rights protection, for example, discriminatory words or behaviour, or graffiti on public facilities against Korean children and students in Japan. The Civil Liberties Bureau of the Ministry of Justice has endeavoured to gather information and investigate the facts and, in addition, with the aim of eradicating such cases, gave an order to the Regional Legal Affairs Bureau and its local offices, on 10 September 1998, to strengthen measures to raise people's awareness of the issue of Koreans in Japan. As specific measures, they handed out leaflets and fliers and put up posters calling for the prevention of discrimination against Koreans, on the way to schools or organizations that Korean children and students frequent. Also, depending on the areas, officers of the aforementioned Bureau and offices actually visit Korean schools and encourage the students to contact the human rights organs of the Ministry of Justice if they have suffered any harassment.

Regulations in the field of information

85. In Japan, the Broadcast Law provides that broadcasters shall, in compiling programmes for domestic broadcasting, not disturb public security, good morals and manners, be politically impartial, broadcast news without distortion etc. This law also provides that they shall establish standards for broadcast programmes, compile the broadcast programmes in accordance with the standards, and establish the Consultative Organization on Broadcast Programmes for the purpose of maintaining the appropriateness of broadcast programmes. Under these provisions, it is a duty of each broadcasting company to broadcast properly, lest any broadcast programme should harm public security, good morals and manners by disseminating or inciting racial discrimination and by justifying or encouraging violence.

86. The Japan Newspaper Association established by the national daily newspaper companies tries to ensure a high ethical standard by formulating "Newspaper ethical principles" as their guide and by imposing self-control on freedom of the press and expression.

87. As to the Internet, which recently has become remarkably widespread, the Association of Electronic Networks organized by personal computer communication service providers formulated the "Code of ethics" and the "Rules and manners for users of personal computer communication", in an attempt to prevent ethical problems, such as slander or abuse of others based on racial hatred, from arising. In addition, following the submission in December 1997 of the report of a study group of the Ministry of Posts and Telecommunications, the Association of Telecommunication Services organized by Internet providers announced guidelines for the response of businesses providing the Internet connection services, etc., in February 1998. Their contract for maintaining a computer network stipulates that the users shall not provide any illegal or harmful information, including discriminatory acts, and independent measures, such as the deletion of the inappropriate content, will be taken in the case of violation of this provision of the contract.

Prohibition of activities to incite groups

88. Article 4 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates that "organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination", are prohibited, and considers "participation in such organizations or activities" as an offence punishable by law.

89. No provision exists in Japan under the present legal system that would prohibit specific organizations or activities from promoting racial discrimination or incitement, or which would punish participation in such organizations. However, if an organization promoting or inciting racial discrimination engages in violent, destructive activities contrary to the Subversive Activities Prevention Law, in accordance with that law, under certain conditions, its activities may be restricted, its dissolution ordered, or it or its members punished.

90. There has been no case in which the Subversive Activities Prevention Law has been applied to an organization promoting and inciting racial discrimination so far.

Article 5

Tribunals and all other organs administering justice

91. In Japan, if people's rights are infringed, they can receive redress by trial. The Constitution of Japan prohibits racial discrimination in article 14, and stipulates that "no person shall be denied the right of access to the courts" in article 32. Thus, all people are guaranteed equal right of access to the courts without racial or ethnic discrimination.

92. The Constitution also stipulates, in article 76, paragraph 3, that "all judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws", to ensure independent and fair trials as well as the judges' status. Trials and judgement on issues concerning people's rights guaranteed by the Constitution shall be conducted publicly (art. 82).

The right to security of person and protection by the State

93. In Japan, the right to security of a person against violence or injury and to protection by the State is guaranteed without racial or ethnic discrimination as follows.

94. The Constitution of Japan stipulates that "all of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, ... be the supreme consideration" (art. 13); "No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited." (art. 18); and, "No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law." (art. 31), and thereby respects to the utmost people's physical safety. It also provides the principle of equality in article 14.

95. The Penal Code deals with crimes such as rioting (art. 106), rape (art. 177), homicide (art. 199), bodily injury (art. 204), violence (art. 208), unlawful meeting and assembly with dangerous weapons (art. 208-2), arrest and confinement (art. 220) and robbery (art. 236). Special laws, including the Law concerning Punishment for Physical Violence and Others, also stipulate violent conduct as crimes and thereby penalize violence and the causing of injuries. These provisions are applied equally regardless of who the victims are.

96. Article 99 of the Constitution imposes on public officials, in particular, the obligation to respect and uphold the Constitution, and article 36 of the Constitution prohibits infliction of torture by public officers. In line with these provisions, the Penal Code sets out crimes, including the crime of abuse of authority by a special public officer (art. 194) and the crime of violence or cruelty by a special public officer (art. 19-5). Such officers are subject to strict punishment.

97. If a law enforcement officer engaged in an investigation of criminal suspects carries out acts of violence or cruelty or other crimes, such as that of abuse of authority by a special public officer or the crime of violent or cruel conduct by a special public officer, he/she will also be accused of the above-mentioned crimes and will be the subject of strict disciplinary action. Although such cases are extremely rare, law enforcement officers are required to undergo

various forms of training after their appointment, appropriate to their level of experience, in order to acquire insight and further develop their awareness of human rights. Moreover, in the process of discharging their duties, superiors instruct junior officers to strive to ensure that such cases do not occur.

98. Article 709 of the Civil Code stipulates that a person can claim compensation for damages from the offender when the person has suffered damage resulting from violence or physical injury. If such conduct is inflicted by a public official, article 17 of the Constitution assigns the liability to the State or a public entity by stipulating that "every person may sue for redress, as provided by law, from the State or a public entity, in the case that he has suffered damage through illegal law of any public official". Based on these articles, the Law concerning State Liability for Compensation was enacted; it assigns the liability to the State in cases where any public official of the State or a public entity illegally inflicts damage upon a third person, whether intentionally or by negligence, in carrying out his/her duty.

Ensuring the security of foreign residents in Japan

99. Foreigners are likely to be isolated from the local residents due to differences in lifestyles or customs and have relatively greater difficulty in obtaining information on the security of the community.

100. The police give guidance on security in daily life through lectures on security for new foreign residents in Japan and by distributing pamphlets in foreign languages on prevention of crime to prevent foreign residents from suffering criminal damage. The police also offer counselling services to mitigate any concerns foreign residents may have in their daily life.

101. Following the increase in telephone calls from foreigners, the police are taking appropriate measures, such as the placement of foreign-language speaking personnel in control centres.

Political rights

Suffrage

102. In Japan, fair elections are guaranteed under the following provisions of the Constitution. The Constitution of Japan holds the sovereignty of the people as one of its fundamental principles and stipulates in article 15, paragraph 1 that people have the inalienable right to choose their public officials and to dismiss them. Paragraph 3 of that article guarantees the right to vote to all on reaching majority. Article 14 of the Constitution prohibits racial discrimination and article 44 prohibits racial discrimination in the context of qualifications to be a Diet member.

103. As the Public Offices Election Law provides that Japanese nationals over 20 years of age have a right to elect a member of the House of Representatives and the House of Councilors based on the principles of the Constitution (art. 9, para. 1), the right to vote is given to all nationals regardless of their race or ethnicity. The said Law also stipulates that Japanese

nationals aged over 25 are eligible to be members of the House of Representatives and those over 30, members of the House of Councilors (art. 10, para. 1). Thus, the right to be elected is also guaranteed to all nationals regardless of their race or ethnicity.

104. Regarding local suffrage, the Public Offices Election Law and the Local Government Law guarantee the right to vote to all Japanese nationals over 20 years of age who have resided in the prefecture or municipality for more than three consecutive months. Japanese nationals over 30 years of age are eligible to run for the office of governor of a prefecture; those over 25 for the office of mayor of a municipality. Japanese nationals over 25 years of age with the right to vote for local government representatives are eligible to be elected as local government representatives. Thus, under the above-mentioned conditions, the right to vote and the right to be elected are given equally to all Japanese nationals regardless of their race or ethnicity.

105. Article 15, paragraph 1 of the Constitution establishes the right to vote and the right to be elected as "inalienable rights" of the people, which are interpreted to be applicable only to Japanese nationals, not guaranteed to foreigners. On the other hand, it is possible for foreigners to make requests, complaints and proposals to the appropriate government or local public entities. With the recognition that public management, which is very closely related to the everyday lives of residents, should be carried out by each local government based on the will of the local residents, two local governments have established a foreign citizens' representative council.[10] The council can deliberate and give opinions on local government measures, especially those concerning foreigners. Moreover, some local governments have reserved a limited number of seats for foreigners in the councils so that the will of foreign residents, who are now considered to be deeply involved in the local community, is reflected in the local policies.[11]

The right to be employed in public office

106. Japanese nationality is required for civil servants who participate in the exercise of public power or in public decision-making. On occasion of employment, article 27 of the National Public Service Law and article 13 of the Local Public Service Law provide that all nationals are treated equally in application of these Laws and that they are not discriminated against by race or for other reasons. Thus, racial or ethnic discrimination is prohibited.

Freedom of movement and residence

107. The Constitution establishes the principle of equality in article 14 and guarantees freedom of movement and residence to the extent that it does not interfere with the public welfare referred to in article 22.

The right to leave and enter Japan

108. The Constitution stipulates equality under the law in article 14 and the freedom to move to a foreign country in article 22, paragraph 2. Thus, freedom to leave and enter Japan is guaranteed to all Japanese nationals regardless of their race or ethnicity. There is no provision in the Constitution about their right to return to their own country, but it is understood to be guaranteed as a matter of course.

109. The Immigration Control and Refugee Recognition Act provides the procedures for confirmation of the departure or return of Japanese nationals (arts. 60 and 61), but this does not restrict leaving or re-entering itself. (Article 13, paragraph 1, Items of the Passport Law stipulates the cases in which there are restrictions on the issuance of passports, such as to criminals or those who are likely to damage Japanese national interests or public security.)

110. For foreigners, the freedom to leave Japan is interpreted as guaranteed by article 22, paragraph 2, of the Constitution. The Immigration Control and Refugee Recognition Act also stipulates the procedures for confirmation of a foreigner's departure from Japan (art. 25); confirmation of departure from the country may be temporarily suspended if a foreigner is being prosecuted or is under arrest for having committed a serious offence (art. 25-2), but this law itself does not restrict the departure of foreigners.

111. Foreigners are required to possess valid passports (except flight crews), obtain appropriate visas for their passports (except nationals of countries with which there is reciprocal visa exemption, by treaty), and have some form of residence status (See para. 20 for residence requirements) according to the Immigration Control and Refugee Recognition Act. Those who do not satisfy certain conditions for landing are not permitted to land, in order to preserve the security of the nation and public order, even if they have any form of residence status (art. 5 of the said Law). However, people are treated equally in the application of these provisions, based on the principle of Article 14 of the Constitution.

The right to nationality

112. With regard to the acquisition of nationality by birth, article 2 of Japan's Nationality Law provides that a child shall be a Japanese national in the following cases: when either the father or the mother is a Japanese national at the time of the birth of the child (item 1); when the father who has died prior to the birth of the child was a Japanese national at the time of his death (item 2); when both parents are unknown or have no nationality in a case where the child was born in Japan (item 3).

113. The Nationality Law, in its article 3 and article 17, paragraphs 1 and 2, provides for the acquisition of nationality by making notification. Article 3 establishes, for instance, that a child who has acquired the status of a legitimate child through the legitimation process, who is under 20 years of age and whose mother or father was a Japanese national at the time of the child's birth may acquire Japanese nationality by making notification to the Minister of Justice. Under article 17, paragraph 1, a person, born in a foreign country and having acquired a foreign nationality by birth, who has lost Japanese nationality by not clearly indicating his or her volition to reserve it, may if he or she is under 20 years of age and has a domicile in Japan, reacquire Japanese nationality by making notification to the Minister of Justice.

114. Naturalization is provided for in article 4 and the minimum requirements for naturalization are stipulated in article 5 of the said Law. The requirements include having a domicile, possessing full capacity, being of upright conduct, being capable of earning a living, and having respect for the provisions of the Constitution. The principle of prevention of dual nationality must also be respected.

115. The Constitution stipulates equality under the law, in article 14. Thus, in any of the above cases, the equal right to acquire nationality is guaranteed regardless of race or ethnicity, as long as the requirements are satisfied.

The right to marriage and choice of spouse, the right to inherit and the right to own property

116. The Constitution stipulates that "marriage shall be based only on the mutual consent of both sexes" (art. 24, para. 1) and that "with regard to choice of spouse, property rights, inheritance, ... marriage ... laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes" (para. 2). Based on these provisions, the Civil Code establishes the conditions for marriage, inheritance and ownership of property during marriage, and these rights are equally guaranteed to all people, as article 14 of the Constitution prohibits racial or ethnic discrimination.

117. As for private property rights, article 29, paragraph 1, of the Constitution stipulates that "the right to own or to hold property is inviolable" and private property rights are equally guaranteed to all people without racial or ethnic discrimination under article 14 of the Constitution.

Freedom of thought, conscience and religion

118. Article 19 of the Constitution stipulates that "freedom of thought and conscience shall not be violated", and guarantees all nationals freedom of thought and conscience. Article 20, paragraph 1, of the Constitution guarantees freedom of religion to all. Freedom of thought, conscience and religion is equally guaranteed to all nationals, regardless of race or ethnicity, based on the principle of equality in article 14 of the Constitution.

119. Article 9, paragraph 1, of the Fundamental Law on Education stipulates that the attitude of religious tolerance and the position of religion in social life shall be valued in education.

Freedom of assembly, association, expression, and speech

120. Article 14 of the Constitution prohibits discrimination on the grounds of race, etc., and article 21 of the Constitution stipulates that "freedom of assembly and association as well as speech, press and all other forms of expression is guaranteed". Thus, the freedom of assembly, association, and expression is guaranteed to all people.

Freedom of choice of employment

121. Article 22 of the Constitution stipulates that every person has the freedom to choose employment, to the extent that it does not interfere with the public welfare, and article 2 of the Employment Security Law guarantees that every person can choose an occupation freely, to the extent that it does not interfere with the public welfare.

122. As to equal treatment in employment, article 3 of the Employment Security Law stipulates that no one should be treated discriminatorily on the grounds of race, nationality ... in employment allocation or guidance. The Public Employment Security Offices instruct

companies that advertise for employees through their offices to ensure equal employment opportunities regardless of race or ethnicity. The offices also give particularly thorough individual guidance to companies that have acted or are likely to act improperly in the process of employment selection.

123. The Public Employment Security Offices give guidance to other companies as a general measure, based on the freedom of choice of occupation as stipulated by the Constitution (art. 22, para. 1) and the Employment Security Law (art. 2) and equal treatment stipulated in the said Law (art. 3), to ensure fairness in carrying out employment allocation or guidance under article 8 of the said Law.

124. When an unfair, discriminatory act takes place on the basis of race or ethnicity at the time of employment or in the workplace itself, the human rights organs of the Ministry of Justice provide counselling services at human rights counselling centres and offer assistance for a settlement. If a case involves human rights infringements, the said organs investigate the case as an infringement of human rights and ensure equality of all persons by raising the awareness of human rights in the settlement process and encouraging the parties concerned voluntarily to cease violations of human rights and to prevent a recurrence of such violations.

Labour conditions

125. The Employment Insurance Law was established with a view to stabilizing workers' lives and employment by providing necessary compensation if they lose their jobs. All people are treated equally with regard to the enjoyment of the rights recognized in the said Law.

126. The laws concerning labour standards, such as the Labour Standards Law and the Workmens Accident Compensation Insurance Law, apply to all workers without any discrimination based on race or ethnicity. To ensure application of these laws to foreign workers, the Labour Standards Inspection Offices notify all employers that these acts also can apply to foreign workers, and take actions to correct employers' conduct if there is a violation of the law. Counselling offices for foreign workers have been established nationwide in the major Prefectural Labour Standards Offices; they offer counselling services provided by professional counsellors.

Forming/joining labour unions

127. Article 28 of the Constitution provides that the right of workers to organize and to bargain and act collectively is guaranteed. The Trade Union Law stipulates that the rules of trade unions must include the provision that "in no event, shall anyone be disqualified for union membership on the basis of race, religion, sex, social status or family origin" (art. 5, para. 2). In addition, no restriction or distinction is made on the basis of race or other distinction with regard to the definition of a worker, as article 3 of the said Law stipulates that workers under the Trade Union Law are "those persons who live on their wages, salaries or other remuneration assimilable thereto, regardless of the kind of occupation". Thus, any worker mentioned above can form or join a trade union, regardless of race or ethnicity.

Housing

128. The Public Housing Law, the Residential Area Improvement Law, the Urban Development Corporation Law, the Local Housing Supply Corporation Law and the Housing Loan Corporation Law provide fair procedures and requirements for recruiting tenants, qualifications and selection for public housing.

129. The Government has notified public housing authorities that the same qualifications for tenant application as those for local Japanese residents should apply to foreigners who have registered domicile and status at their residing municipalities, in accordance with article 4, paragraph 1 of the Alien Registration Law. In practice, treatment of foreigners is in full compliance with the said notice.

130. As to private housing, the Government gives guidance to lessors through lessor organizations, such as the National Rental Housing Management Association, to prevent them from engaging in any discriminatory conduct, including selecting tenants on the basis of race or ethnicity.

131. The human rights organs of the Ministry of Justice make efforts to ensure equality in the selection of tenants through campaigns against unfair treatment.

Public health, medical care, social security, social services

132. The laws on public health, medical care, social security and social services prohibit racial discrimination and stipulate equality among races. For example, article 19, paragraph 1, of the Medical Practitioners Law and article 19, paragraph 1, of the Dentists Law stipulate that medical doctors and dentists must not refuse a patient's request for examination or treatment without "fair reason". Thus, the refusal to examine or treat a patient on the basis of race or ethnicity is prohibited. Article 39, paragraph 1 of the Health Nurses, Midwives and Nurses Law, likewise, prohibits refusal to assist in the delivery of a child on the basis of race or ethnicity. Pharmacists must not refuse to fill a prescription without fair reason when a prescription is requested, in accordance with article 21 of the Pharmacists Law, and thus they are also prohibited from refusing prescription services on the basis of race or ethnicity. Moreover, welfare commissioners who, in promoting social welfare, engage in protecting and giving guidance to those who need protection must not engage in discriminatory treatment on the basis of race or ethnicity in carrying out their duties, under article 15 of the Social Workers Law.

133. The Child Welfare Law entrusts guardians and government and local public entities with the responsibility for sound child-rearing, in mind and body, recognizing the need for all children to be ensured a sound upbringing. Based on this provision, all administrative measures under the Child Welfare Law, such as admission to child welfare facilities, are extended equally to all children, without discrimination on the basis of race or ethnicity. Child allowances (paid to families who have a child under three years of age and who earn less than a certain amount set by Cabinet order) and child-rearing allowances (paid to families who have a child under 18 years of age and who do not have a father who can work) are paid to those who have domiciles in Japan, without any racial or ethnic discrimination, in accordance with the provisions of the Child Allowance Law and the Child Rearing Allowance Law respectively.

134. In the National Pension Law and the National Health Insurance Law, it is stated that any person who has a domicile in Japan is eligible for such services regardless of their nationality. Moreover, under the Welfare Pension Insurance Law and the Health Insurance Law, any person employed by an applicable company is also eligible, regardless of nationality.

135. The Public Assistance Law has the purpose of protecting Japanese nationals who are unable to maintain their livelihood (art. 1) and stipulates that equal and non-discriminatory protection should be given as long as the legal requirements are fulfilled (art. 2). Legally speaking, this Law does not apply to foreigners who do not have Japanese nationality. However, as an administrative measure, identical protection (livelihood aid, education aid, housing aid, medical aid, childbirth aid, unemployment aid, funeral aid) is given, under the same conditions as for Japanese nationals, to permanent residents and settled residents in Japan who are permitted to live in Japan like Japanese nationals. (The number of foreign residents in Japan under this protection was 28,788 in 1997. See annex 6 for details.)

Education

136. Article 14, paragraph 1, of the Constitution of Japan sets out the fundamental principle that all people are equal under the law without racial discrimination, and article 26, paragraph 1, stipulates that all people shall have the right to receive an equal education according to their ability, as provided for by law. Based on these provisions, article 3 of the Fundamental Law on Education elucidates the principle of equal opportunities in education, stipulating that all people must be equally offered an opportunity for education according to their ability, and that no person should be racially discriminated against in education. These provisions apply not only to public schools, but also to private schools. The Government gives guidance and instruction to all educational institutions to ensure equal opportunities for all people without racial or ethnic discrimination in the educational activities offered based on education-related laws, in accordance with the Constitution and the Fundamental Law on Education .

137. Article 3, paragraph 1 of the said Law stipulates that no person shall suffer discrimination in education on the basis of race, so that all teachers, including those in private schools, are requested to engage in education in a spirit of impartiality and fairness, and to treat all students equally. In this respect, the Government gives thorough and proper instructions.

138. In Japan, children must attend elementary school and lower secondary school for the period from the beginning of the first school year which follows the day after the boys and girls become a full 6 years of age to the end of the school year during which they become a full 15 years of age. Foreign children living in Japan are not obliged to attend school, however, they are accepted at various public compulsory education schools, if they so wish. Under the School Education Law, all students who have graduated from a lower secondary or an equivalent school, or who have completed the first term course of secondary school, or whose academic achievement is recognized as being equivalent or higher in accordance with the criteria laid down by the Minister of Education, Science, Sports and Culture, are qualified to be admitted to upper secondary schools, without discrimination of any kind based on race, nationality, etc.

139. Brochures concerning school entrance are issued by the Municipal Board of Education to parents of a child of school age who does not have Japanese nationality, so that the child will not be deprived of the opportunity for education at public schools.

140. Foreign children who enter Japanese public elementary and junior high school are treated in the same way as Japanese students, based on the principle of equal treatment of all people in school education, including: (i) free tuition; (ii) free distribution of textbooks; (iii) assistance in attending school; (iv) a mutual fund for disaster aid; and (v) entrance qualifications to a higher school. Foreign students attending school referred to in article 1 of the School Education Law can learn languages and cultures of foreign countries as extracurricular activities and some local public entities offer such educational opportunities.

141. Most schools for foreigners, such as international schools, are approved as miscellaneous schools by prefectural governors, and their independence is respected.

Cultural activities

142. Article 13 of the Constitution of Japan stipulates that all people shall be respected as individuals. Their right to life, liberty and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs. Article 25 of the Constitution stipulates that all people shall have the right to maintain the minimum standards of wholesome and cultured living (para. 1) and that in all spheres of life, the State shall use its endeavours for the promotion and extension of social welfare and security, and of public health (para. 2). These provisions, along with the principle of equality under the law in article 14, paragraph 1, guarantee equal participation in cultural activities. The Government and local public entities carry out various projects to enable all people to participate in sports/cultural activities without racial or ethnic discrimination.

Places or services intended for use by the general public

143. According to the Environment and Hygiene-Related Businesses Proper Management Act, the Environmental Sanitation Management Guidance Centre deals with complaints to safeguard the equal treatment of users and consumers at hotels, restaurants, coffee shops and theatres. In particular, the Hotel Business Law does not permit hotels to refuse a stay, merely on the basis of race or ethnicity. The Regulations for the Enforcement of the Law for Improvement of International Tourist Hotel Facilities prohibit registered hotels from treating their guests in a racially discriminatory manner.

144. The Railway Operation Act, the Railway Business Law, the Road Transportation Law, the Trucking Business Law and the Freight Forwarding Business Law prohibit discriminatory treatment by land transportation organizations. The Marine Transportation Law and the Port Transportation Business Law prohibit discriminatory treatment by marine transportation organizations. The Aviation Law prohibits discriminatory treatment by air transportation organizations. While the systems differ depending on the law in question, there are provisions that, for example, the Government is not to authorize fares or fees that treat specific users in a discriminatory way, or that the Government must not refuse transportation, except in cases where the transport is against public order and good manners.

Article 6

Remedies and compensation measures in cases of human rights infringement

145. The following measures are being taken for effective protection and remedies in case of human rights infringement.

Remedies by judicial organs

146. The Constitution stipulates respect of fundamental human rights, including various liberties (art. 11) and equality under the law and prohibition of racial discrimination (art. 14, para. 1). If a government official or official of an entity exercising public authority inflicts damage on a person based on racial discrimination in the course of performing his/her duties, the Government or the local public entities concerned shall be liable to compensate the damage fairly and properly in accordance with the Law concerning State Liability for Compensation.

147. In civil law, racially discriminatory actions infringing on human rights may be deemed null and void (Civil Code, arts. 1 and 90). A person who violates the rights of others by racially discriminatory conduct must give compensation for any damage arising therefrom under certain conditions (art. 709). The person must give fair and proper compensation.

148. The Constitution guarantees all people the right of access to the courts (art. 32), so a victim of racial discrimination can make a claim to the court for redress under the respective laws.

149. On the other hand, the following procedures are taken if racially discriminatory conduct constitutes a crime. As to the criminal trial procedure, only public prosecutors can institute prosecution (Code of Criminal Procedure, art. 247), but a person who has been injured by an offence may file a complaint to the investigative authorities (art. 230). Moreover, any person who believes an offence has been committed may lodge an accusation with the investigative authorities (art. 239). In other words, when racially discriminatory conduct infringing on human rights and fundamental freedoms constitutes a crime, people may make complaints or accusations. The investigative authorities investigate the case fairly, based upon these complaints or accusations, and if they collect enough evidence for prosecution, a public prosecutor brings the case to court.

150. The following are examples of cases of redress by a judicial organ:

(a) Yokohama District Court, 19 June 1974, Judgement of the Second Division of the Civil Court. A Korean resident in Japan, in fear of not being employed if his nationality was known, kept secret the fact that he was a Korean resident and entered instead a Japanese name on his curriculum vitae and on the report on his family, which he submitted when applying for employment. He was informally employed by a Japanese company, but later dismissed on the grounds of making a false statement, in accordance with the employer's legal right to cancel the contract. The Court ruled that the dismissal, which was made on the grounds of his being a Korean resident without any other rational reason, constitutes unfair conduct in accordance with

article 3 of the Labour Standards Law and article 90 of the Civil Code. The Court ordered damage compensation to be paid for the mental anguish inflicted on the plaintiff due to ethnic discrimination.

(b) Osaka District Court, 18 June 1993, Judgement of the Seventeenth Division of the Civil Court. A Korean resident in Japan who applied for a tenancy agreed on the lease with a real estate agent, but the owner refused to conclude the contract mainly on the grounds that he was a Korean resident. The Court ruled that this was in violation of the dignity of the individual (Civil Code, art. 1, para. 2) in the preliminary contract stage and ordered compensation for damage, in accordance with article 709 of the Civil Code.

Legal aid system

151. A legal aid system is one that substantially guarantees the right of access to the courts, as stipulated in article 32 of the Constitution. This system pays lawsuit and attorney expenses for people who cannot file a suit or consult an attorney because of poverty. The system applies to foreigners as well, with the proviso that they are expected to reside in Japan until they have reimbursed all payments after the conclusion of the case. The assisted person has to repay the costs in full, however, he/she may be permitted a deferment or even exemption of the payment if he/she has difficulties in repaying due to his/her financial situation and living conditions. The Legal Aid Association, established in 1952, plays the leading role in running this system and the Government of Japan provides subsidies to the Association to make it work effectively. The number of legal aid cases increases every year. There were 8,172 cases reported in 1997.

Redress by the administrative organizations

152. In Japan, the following measures are being taken, besides judicial redress, to guarantee the right to all people to request effective protection or remedy in cases where racially discriminatory conduct takes place. When the person concerned still has complaints about the redress given by the administration organizations, he/she can file a suit in court in pursuit of judicial redress under the Japanese judicial system.

Administrative appeal law

153. In Japan, people can make a complaint under the Administrative Appeal Law against illegal or improper decisions. This measure is available to all people, and thus the Government ensures a means to give redress to the people in the case of infringement of their rights.

Immigration Control and Refugee Recognition Act

154. Article 4 of the Administrative Appeal Law sets out the cases in which an appeal is not permitted. One such case is that of decisions regarding the entry and departure of foreigners (Administrative Appeal Law, art. 4, para. 1, item 10). However, the Immigration Control and Refugee Recognition Act has a system for the filing of complaints. In making a complaint, foreigners to whom this system applies can cite unfairness and can call for reconsideration of a discriminatory decision based on differences of race or ethnicity.

(i) Landing procedures: a foreigner recognized by the special inquiry officer as not meeting landing requirements can file an objection with the Minister of Justice.

(ii) Deportation procedures: a foreigner whose deportation is deemed appropriate by the immigration inspector can request a hearing with the inquiry officer; moreover, if the special inquiry officer judges that the immigration inspector was not mistaken, the foreigner can file an objection with the Minister of Justice.

(iii) Refugee recognition procedures: a foreigner whose application for refugee recognition was rejected or whose refugee status was revoked can file an objection with the Minister of Justice.

The structure of the human rights organs

(a) Civil Liberties Bureau of the Ministry of Justice and its lower organs

155. The Civil Liberties Bureau was established in the Ministry of Justice as the central administration organization engaging in human rights protection. The Civil Liberties Department in the Legal Affairs Bureau and the Civil Liberties Division in the District Legal Affairs Bureau were established as the respective lower organs of those Bureaux and officials engaged in human rights protection are sent to the branch offices of the Legal Affairs Bureau/District Legal Affairs Bureau, since people should have easy access to human rights protection and the system should be closely connected to the community in order to give a means of redress to victims of human rights infringements occurring in the daily lives of the general public.

(b) The Civil Liberties Commissioners

156. The Civil Liberties Commissioners voluntarily engage in human rights protection activities among community residents. The system of Civil Liberties Commissioners was established on the basis of the concept that it is most desirable to keep an eye on human rights infringements and promote awareness of liberty and human rights through contact with people in their daily lives, with the cooperation of people of good character and broad knowledge chosen from the local communities. The Minister of Justice appoints a civil liberties commissioner from a list of nominees recommended by each chief of municipality. The selection process follows a democratic and careful procedure, as follows:

(a) The mayor hears the opinion of the municipal assembly and recommends a person of good character who has a broad knowledge of social affairs in general, as well as a deep understanding of the importance of protecting the human rights of residents.

(b) The Minister of Justice appoints the above-mentioned nominee after hearing opinions from the bar association and the Prefectural Federation Consultative Assemblies of the Civil Liberties Commissioners in the prefecture where he/she is a resident.

Thus, the Civil Liberties Commissioners are chosen from all fields. About 14,000 commissioners have now been placed in municipal districts nationwide.

157. The Civil Liberties Commissioners organize the Consultative Assembly of Civil Liberties Commissioners, the Prefectural Federation of Consultative Assemblies of the Civil Liberties Commissioners, the Block Federation of Consultative Assemblies of the Civil Liberties Commissioners and the National Federation of Consultative Assemblies of the Civil Liberties Commissioners, through which they make contacts and coordinate their missions, exchange information, gather necessary materials, submit study reports and opinions and, if necessary, give opinions to the related authorities.

The Council for Human Rights Promotion

158. The Council for Human Rights Promotion was established in March 1997 based on the Law of Promotion of Measures for Human Rights Protection enacted in December 1996. The Council has been conducting research into and deliberating on "basic matters relating to comprehensive development of measures concerning human rights education and promotion activities, which enhance the level of understanding of the concept of respecting human rights among citizens" as well as "basic matters relating to the improvement of measures regarding the relief of the victim in case of infringements of human rights".

The activities of human rights organs

The investigation/resolution of cases of human rights infringement

159. "Infringement of human rights" in human rights infringement cases that the human rights organs deal with refers to "conduct counter to the idea of respect for human rights which is a fundamental principle of the Constitution". Racially discriminatory acts constitute "human rights infringements". They include not only violations of conventions/law or order, but also socially improper conduct. A human rights infringement which has already been the subject of either a criminal or civil lawsuit should be handled by the court, the prosecution office and the police and, for this reason, in principle, the human rights organs are not involved in such a case.

160. The investigation whether human rights have been infringed or not starts when the human rights organs receive a request from the persons concerned, or when they learn of a suspected human rights infringement case through the media. The investigation has no legal status and is possible only with the voluntary cooperation of the persons concerned (a so-called voluntary investigation). The reason is that the purpose of the investigation carried out by human rights organs, unlike the criminal investigation, the aim of which is to impose criminal sanctions on criminals, is to raise the awareness of the persons concerned of human rights in the course of the investigation and to let them voluntarily remove the existing phenomena of human rights infringement and give a means of redress to victims in practice.

161. Following the investigation, if a human rights infringement is found, the human rights organs will deal with the case according to its nature (see below). If human rights infringements continue to take place, the organs give the means of redress to the victim by removing the phenomena of violation through education of the persons concerned. In cases where human rights infringements have already taken place, however, they urge, by letter (warning, counsel) or oral expression (counsel), the violator, and his/her guardian who is in the position to

instruct/supervise him/her, to search his/her conscience so as to avoid any recurrence in the future (see annex 7). If improvement of administrative measures is deemed necessary, the organs are to notify the authorities concerned to that effect.

162. The number of human rights infringement cases accepted in 1997 was 16,148. Cases of racial discrimination reported in 1998 were as follows:

(a) A real estate agency refused a foreigner the right to lease an apartment asking him/her to "refrain from leasing at the owner's request". According to the investigation into the matter conducted by the human rights organ of the Ministry of Justice, however, this was confirmed as an act of discrimination against foreigners in the leasing of an apartment, based on prejudice against them. The real estate agency was asked to reconsider its attitude, considering the explanation that such acts could not be overlooked under human rights protection, in accordance with the concept of respect for fundamental human rights under articles 13 and 14 of the Constitution, and also in consideration of Japan's responsibility as a contracting party to the International Convention on the Elimination of All Forms of Racial Discrimination. As a consequence, the real estate agency expressed regret for the said act and promised that it would endeavour to obtain an appropriate understanding of issues regarding foreigners. (The measure taken was "explanation".)

(b) A village which received a report that a girl had been touched by a foreign visitor at a public swimming pool in the village decided to restrict foreigners' use of the pool, and put up notices stating "Foreign visitors are prohibited from using the swimming pool at this time". The human rights organs of the Ministry of Justice explained to the persons in the village responsible for this decision that such a measure discriminating against foreigners in general was in violation of the Constitution of Japan and the Universal Declaration of Human Rights, as well as the International Convention on the Elimination of All Forms of Racial Discrimination, and they could not overlook such discrimination in the light of the protection of human rights. They required the village to withdraw the decision and the notices immediately. The village accordingly withdrew them. (The measure taken was an "elimination measure".)

(b) Human rights counselling

163. Human rights counselling rooms are open at all times in the Legal Affairs Bureau/District Legal Affairs Bureau and their branch offices, and occasional offices set up at municipal halls, department stores and community centres. Officials of the Legal Affairs Bureau and the Civil Liberties Commissioners offer counselling there. The counselling is free of charge and the contents of the counselling are kept strictly confidential. In counselling, the officials of the Legal Affairs Bureau and the Civil Liberties Commissioners listen carefully to the people requesting help and, based on the merits of the case, render assistance, such as giving advice on procedures necessary to protect rights or introducing the concerned parties to the relevant organs that can deal with their particular problem. For cases where an investigation/decision of the human rights organs is deemed necessary, a human rights infringement case is considered, and measures are taken as described under "The investigation/resolution of cases of human rights infringements" (see para. 160 above).

164. As the number of foreigners in Japan increases, new types of human rights problems occur, and the number of cases of counselling for foreigners also increases. To cope with this, counselling rooms in the eight Legal Affairs Bureaux/District Legal Affairs Bureaux offer human rights counselling for foreigners with English and Chinese translators on designated days of the week. The other Legal Affairs Bureaux/District Legal Affairs Bureaux also offer this language service occasionally during Human Rights Week or on similar occasions. This service and other human rights counselling services are offered free of charge and the Bureaux take care to protect the privacy of the foreigners.

165. The following are some complaints concerning which the above-mentioned human rights organs counselled foreigners in 1998. However, the organs did not conduct investigations into these cases as infringements of human rights, either because the cases were passed on to other appropriate organizations, or because the person him/herself did not request further intervention by the human rights organ.

(a) The company did not pay my salary although payday had already passed, and then tried to fire me (Brazilian national);

(b) My son/daughter cannot make friends with Japanese, probably because the housewives in the neighbourhood tell their children not to play with non-Japanese children (Chinese national).

The dissemination and enhancement of the concept of respect for human rights

166. Officials engaged in human rights protection and the Civil Liberties Commissioners work together to disseminate and enhance the concept of respect for human rights. (For details, see under article 7 below.)

Article 7

167. It is important to enhance awareness of human rights in every individual, in addition to adjusting Japan's legal system, in order to eliminate racial prejudice and discrimination. The Government has continued to promote human rights education and numerous activities to enlighten people on human rights protection. The Government intends to implement further measures in this field, following the accession of Japan to the International Convention on the Elimination of All Forms of Racial Discrimination and the proclamation of the decade from 1995 as the United Nations Decade for Human Rights Education.

168. Under the Law on the Promotion of Measures for Human Rights Protection (see para. 42 above), enacted in December 1996, the Council for Human Rights Promotion was established in March 1997. The Council has been investigating and examining basic matters concerning the comprehensive promotion of education, to enhance the level of understanding among citizens of the concept of respect for human rights, in accordance with a mandate from the Minister of Justice, the Minister of Education, Culture and Science and the Director-General of the Management and Coordination Agency.

Education and professors

169. It is important that school children study how properly to respect fundamental human rights, deepen their level of understanding of different ethnic groups and eliminate racial or ethnic discrimination or prejudice. Therefore, elementary schools, junior high schools and high schools offer instruction on matters regarding respect of human rights as part of the overall educational activities. These schools also promote education that will lead to deeper understanding of and respect for the ways of life and cultures of people of various foreign countries. Especially in social studies and ethics classes, school children, according to their particular stage of development study the significance and the role of international human rights law and of the respect for fundamental human rights.

170. Furthermore, in universities and junior colleges, students deepen their knowledge and understanding of human rights through seminars in the humanities, the social sciences and other fields. The Government provides financial support to municipalities that offer various high-level learning opportunities appropriate for the community and which meet the needs of the people at social education facilities, including citizen's public halls, conveniently located for local residents. Thus, various academic activities take place, such as classes and lectures on understanding foreign cultures and human rights, which are important subjects of study in modern society.

171. Officials engaged in human rights protection and Civil Liberties Commissioners work together to disseminate and enhance the concept of respect for human rights among the general public. They use various methods to conduct these activities, including sponsoring symposia, lectures, discussion meetings, debates and films; participating in various events; television/radio/cable broadcasting; placing announcements in newspapers and notices in public relations (PR) magazines; distributing pamphlets and other printed materials; putting up posters, banners and signboards; touring with PR vehicles; and holding exhibitions.

172. "The Festival of Human Rights Awareness" is a large-scale event co-sponsored by the Ministry of Justice, the Ministry of Education, Science, Sports and Culture, the Management and Coordination Agency, and the local authorities at each location concerned. This event is held every year at three locations in Japan. During this event, programmes to raise people's awareness of human rights, such as a symposium on human rights, presentation of reference materials, showing of movies, and such cultural activities as concerts and presentation of local cultures are carried out in a synchronized manner, in order to secure a higher level of participation in the event and to raise people's awareness of human rights. In 1998, under the theme of "Consider others' human rights as well as your own human rights", the festival was held in three locations. A total of 79,000 people participated.

173. Public awareness campaigns are carried out across the country every Human Rights Week, which ends on Human Rights Day, 10 December. At the Cabinet session on 25 September 1998, the Minister of Justice and the Minister for Foreign Affairs determined that December 1998 would be the commemorative month for the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights and the fiftieth anniversary of Japan's establishment of the civil liberties commissioner system, so as to increase people's recognition of the significance and importance of both the Declaration and the system. Both Ministers also

announced that, based on the national action plan for the United Nations Decade for Human Rights Education (issued on 4 July 1997), various events would be held for the promotion of human rights education and awareness-raising efforts.

174. Accordingly, in December 1998, in place of the efforts which had been made thus far during Human Rights Week (4-10 December), the Ministry of Justice and the National Federation of Consultative Assemblies of the Civil Liberties Commissioners carried out an awareness campaign under the motto "Raise awareness in the era of globalization", so as to strengthen people's understanding and recognition of various human rights problems, regardless of nationality, including racial discrimination.

175. Moreover, having established the Day of the Civil Liberties Commissioners on 1 June every year, which commemorates the enforcement day of the Civil Liberties Commissioners Law (1 June 1949), the National Federation of Consultative Assemblies of the Civil Liberties Commissioners carries out nationwide activities to make the Civil Liberties Commissioners system widely known to the public and also to raise awareness of human rights.

The United Nations Decade for Human Rights Education

176. Japan announced a national action plan for the United Nations Decade for Human Rights Education in July 1997. The plan aims to create a universal culture of human rights protection and carry out training/seminars, public relations activities and related information services. In view of the principles of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government intends to promote further human rights campaigns recognizing that human rights education is the most important tool to disseminate the concept of human rights among the general public. The Government will also pursue the promotion of human rights education in line with the national action plan, which puts particular emphasis on respect for the rights of the Ainu people and the elimination of prejudice and discrimination against foreigners.

Culture

(a) The Ainu culture

177. The Government has continued to promote Ainu culture through the Utari Welfare Measures of Hokkaido Prefecture. The human rights organs of the Ministry of Justice are making efforts to promote public understanding of the Ainu people by publishing and distributing human rights materials entitled "The Ainu people and human rights". The report of the Round Table on the Policy for the Ainu People (see under article 1) concluded that all possible measures, including legislative measures, should be taken for the conservation and promotion of the Ainu language and traditional culture and to facilitate understanding of the Ainu people, such as (a) promotion of comprehensive and practical study of the Ainu, (b) promotion of the Ainu culture, including the Ainu language, (c) re-establishment of traditional life space, and (d) facilitation of understanding. Respecting the report, the Government enacted the Law for the Promotion of the Ainu Culture and for the Dissemination of and Advocacy for the Traditions of the Ainu and the Ainu Culture in May 1997 and intends to promote the Ainu culture under this Law.

(b) International cultural exchange

178. With the internationalization of Japanese society, opening people's minds and promoting mutual understanding of different races and ethnicity has become important in Japan to respect each other's values and to coexist by overcoming ethnic and cultural differences.

179. From such a perspective, the Government, actively implements many kinds of personal and cultural exchange programmes with various foreign countries at all levels, such as science, art, youth and student exchanges. The Government considers youth exchanges to be particularly important, as the youth of today will be the driving force of tomorrow. Therefore, the Government makes efforts to promote youth exchanges and acceptance of foreign students, as well as to expand exchanges with various foreign schools. The local governments implement programmes to facilitate understanding about foreign countries and areas, and exchange programmes, to which the Government gives financial support.

Public relations activities

180. The Government has prepared and distributed pamphlets on the Universal Declaration on Human Rights and other United Nations human rights instruments. After the conclusion of the International Convention on the Elimination of All Forms of Racial Discrimination, the Ministry of Foreign Affairs prepared 100,000 pamphlets describing the process of the drafting of the Convention and setting out the full text of the Convention and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and distributed the pamphlets to relevant organizations, such as ministries, local governments, police offices around the country, public libraries, NGOs and those who requested such literature. The Government also tries to disseminate the meaning and the contents of the Convention through government PR magazines, radio programmes and lectures. Major information on the Convention is also offered on the Internet.

181. The human rights organs of the Ministry of Justice have also prepared 160,000 leaflets explaining the meaning of the Convention and describing the process of its drafting, and make them available to local governments through the Legal Affairs Bureau and District Legal Affairs Bureaux around the country. It also distributes the leaflets to the general public at lectures and symposia.

182. The Government plans to distribute this report to relevant ministries and make it widely available to the general public should they request it.

Notes

[1] In this report, the fact that the treatment of foreigners in Japan has been focused on does not mean that Japan considers distinction based on nationality as the subject of the Convention.

[2] The number of naturalized Japanese nationals was 301,828 as of the end of 1998. The ratio of naturalized people to Japan's total population is not clear since it is difficult to obtain information on the exact number of persons deceased after naturalization.

[3] Wajin refers to all other Japanese, except the Ainu themselves.

[4] In this survey, "Ainu" refers to "the people in the local community who are considered to have inherited Ainu blood and those who reside with the Ainu people due to marriage or adoption". However, a person is not included in the survey when that person refuses to be identified as Ainu, in spite of the likelihood of his or her being of Ainu descent. "Ainu" are sometimes called "Utari". In the Ainu language, "Ainu" means a "human being"; "Utari", "a compatriot".

[5] A foreigner is to apply for his/her registration to the head of the municipality in which his/her residence is located within 90 days of the day of his/her entry into Japan (within 60 days of the day of his/her birth, etc.) and the registration is closed due to departure from Japan, naturalization as a Japanese citizen, or death. Often no registration takes place when a foreigner leaves Japan within 90 days of entry.

[6] "Entertainer" refers to activities relating to theatrical performances, musical performances, sports or any other show business. "Engineer" refers to activities relating to the provision of a service which requires knowledge in the field of technology and/or physical science, engineering or other natural science field. "Skilled labour" refers to activities relating to the provision of a service which requires industrial techniques or skills belonging to a special field. "Instructor" refers to activities relating to language instruction and other education at elementary schools, junior high schools, high schools, advanced vocational schools or other educational institutions equivalent to vocational schools in facilities and curriculum. "Religious activities" refers to missionary and other religious activities conducted by foreigners dispatched by foreign religious organizations.

[7] This Agreement was concluded to normalize diplomatic relations between Japan and the Republic of Korea by solving various issues. It entered into force simultaneously with the Agreement on the Basic Relationship between Japan and the Republic of Korea (Agreement No. 25 in 1965) providing for the permanent residence, education, public assistance, national health insurance, ownership of property and remittances of Korean residents in Japan.

[8] "Miscellaneous school" refers to an educational institution giving school education other than schools specified in article 1 of the School Education Law. However, it does not include human resources development centres, etc. which have special provisions under other laws, and specialized schools.

[9] "High school" refers to one of the educational institutions specified in article 1 of the School Education Law, which provide high-level ordinary education and professional education in accordance with physical and mental development, based on the foundation laid by junior high school education. The high school educational curriculum is based on the course of study prescribed by the Ministry of Education, Science and Culture in accordance with article 43 of the School Education Law and article 57.2 of the Regulation of the said Law.

[10] Kawasaki City in Kanagawa Prefecture established a Foreign Citizens' Representative Council in 1996. The Council consists of 26 members with the requirement that representatives be over 18 years of age and have been registered as foreign residents in the municipality for

more than one year. The Council investigates and deliberates a wide variety of issues regarding foreign residents, and reports or gives opinions on them to the Mayor. Its comments are not legally binding, but the municipal organs are requested to respect them. The Tokyo Metropolitan Government also set up a Foreign Residents' Council in 1997 to make it possible for foreigners to participate in the administration as equal members in the society.

[11] The Osaka Metropolitan Government, Osaka City and Kanagawa Prefecture each have established a council on the issues of foreign residents in Japan. Half of the members of the council are foreign nationals so that a wide variety of opinions on issues and measures regarding foreigners can be obtained.